

REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 13, 16 through 19, and 22 through 25 are pending, with Claims 13 and 19 being independent.

The claims were variously rejected under 35 U.S.C. § 103 over various combinations of documents, with all such combinations relying upon US 2004/0036908 A1 (Yagita, et al.). All rejections are respectfully traversed. As discussed with the Examiner during a telephonic conversation graciously granted by the Examiner on May 7, 2010, Applicant notes that on December 5, 2007, Applicant filed a sworn translation of Japanese Patent Appln. No. 2002-378677 filed December 26, 2002, from which the subject application claims priority under 35 U.S.C. § 119 and which application pre-dates the June 2, 2003 filing date of Yagita, et al., thereby precluding application of that document under 35 U.S.C. § 102(e). MPEP 201.15. Applicant understands that the Examiner is in agreement that the rejections therefore should be withdrawn.

During the telephonic conversation, the Examiner indicated that US 2003/0103236 A1 (Kato) could be used in a 35 U.S.C. § 103 rejection instead, but that such could be removed if a 35 U.S.C. § 103(c) statement could be made (since Kato was published on June 5, 2003, it cannot be applied under 35 U.S.C. § 102(a) in view of the subject application's December 26, 2002 priority application discussed above). Hence, as kindly suggested by the Examiner, Applicant respectfully states under 35 U.S.C. § 103(c) that:

Kato and the invention of the subject
application were commonly owned or subject

to common assignment at the time the
invention of the subject application was made.

Accordingly, Applicant respectfully submits that Kato does not qualify as prior art under 35 U.S.C. § 103. See 35 U.S.C. § 103(c); "Guidelines Setting Forth a Modified Policy Concerning the Evidence of Common Ownership, or an Obligation of Assignment to the Same Person, as Required by 35 U.S.C. 103(c)," 1241 O.G. 96 (Dec. 26, 2000).

REQUEST FOR RETURN OF INFORMATION DISCLOSURE CITATION FORM

Also, since Kato was not listed on a Form PTO-892, Applicant has prepared and attached hereto a Form PTO/SB/08a listing the same, and Applicant asks that the Examiner return the same so that Kato will be made of record. Favorable consideration is earnestly solicited.

CONCLUSION

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

Applicant submits that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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